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SUBJECT: MEDIA LAW: IMPORTANT STEP BUT NO PANACEA

REF: A. KABUL 1099
[1](#)B. KABUL 1043

[1](#)1. (SBU) The Embassy has urged President Karzai to publish the Media Law as soon as possible in order to advance Afghan media's freedoms (reftels). Karzai has told officials at the Ministry of Justice and Office of Administrative Affairs (OAA) to hold off on publication until he consults Supreme Court Justice Azimi on details associated with printing a law that has had one article ruled unconstitutional by the Supreme Court. An OAA contact said Karzai had yet to schedule a meeting with Azimi as of May 31. Working-level officials, rather than the president and chief justice, strike us as better suited to handle questions such as how to renumber the law's articles that followed the unconstitutional provision in the text of the law. Given Karzai's stated commitment to publish the law, we believe he should do so promptly.

[1](#)2. (SBU) Publication of the Media Law in the official gazette would be a positive step forward and an important symbolic victory for journalists. The law, however, is not a panacea for the serious threats to media freedom that exist in Afghanistan, nor is it likely to promote greater transparency in the upcoming elections. The international community, journalists, and Afghan elite will applaud its publication. Average Afghans, who are generally uninformed on the issue, are unlikely to perceive a benefit.

[1](#)3. (SBU) The Media Law commits the government to "support, strengthen, and guarantee" freedom of the media. It calls for legal protection to journalists and allows them to establish unions and support networks. Despite some potentially subjective articles prohibiting media "contrary to Islam" or "promoting religions other than Islam", the law reinforces Afghanistan's current laws and presidential decrees governing media affairs. However, even without the Media Law's publication, journalist unions already exist, and local media regularly print anti-government opinions. The law does not offer specific solutions to the issue of harassment of and violence against journalists, either by insurgents or government entities. Moreover, the current version of the law does not contain any provisions that would enforce greater impartiality in state-run media or realistically affect election coverage.

[1](#)4. (SBU) In March 2009, the Supreme Court ruled as unconstitutional a provision requiring the presidentially appointed director of Radio and Television Afghanistan (RTA) to win Lower House confirmation. Parliament had sought to balance what many MPs viewed as unequal executive control over RTA. However, we believe that had the court not tossed out this requirement, Karzai would still have exercised unitary control over the RTA director position. In several previous instances where the Lower House has rejected a Karzai nominee to an executive position, Karzai has kept the nominee in office as an "acting" director or minister. We expect this scenario would have played out with any controversial nominee rejected by the Lower House ahead of

the election.

15. (SBU) The Media Law merits immediate publication in the official gazette, if only to reinforce already-existing media protections and to put an end to a long-running Karzai-Parliament dispute that has contributed to poor relations between the two branches of government. The symbolic victory of its publication would serve to encourage and perhaps energize journalists. However, the law will play at best a small role in the upcoming presidential and provincial council election campaign.

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